

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

LILLIAN C. FRAZIER,

Plaintiff,

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

Case No. 2:16-cv-11363

Honorable Laurie J. Michelson

Magistrate Judge Elizabeth A. Stafford

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**ORDER REGARDING REPORT AND RECOMMENDATION [30] AND  
GRANTING MOTION FOR ATTORNEY'S FEES [20]**

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Before the Court is Magistrate Judge Elizabeth A. Stafford's Report and Recommendation. (R. 30.) At the conclusion of her August 29, 2018 Report and Recommendation, Magistrate Judge Stafford notified the parties that they were required to file any objections within 14 days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (R. 30, PageID.747.) It is now October 4, 2018. As such, the time to file objections has expired. And no objections have been filed.

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party shall file objections with the district court or else waive right to appeal." And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit's waiver-of-appellate-review rule rested on the assumption "that the failure to object may constitute a procedural default waiving review even at the district court level." 474 U.S. at 149; *see also*

*Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at \*8 (E.D. Mich. Apr. 16, 2012) (“The Court is not obligated to review the portions of the report to which no objection was made.” (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge’s Report and accepts her recommended disposition. It follows that this Court GRANTS the motion for attorney’s fees (R. 20) and that “[Daryl] Royal’s motion for 42 U.S.C. § 406(b) attorney fees be GRANTED, that he be awarded \$14,040.00, and that he refund the EAJA fee of \$4,914.00 to Frazier.” (R. 30, PageID.746.)

SO ORDERED.

s/Laurie J. Michelson  
LAURIE J. MICHELSON  
UNITED STATES DISTRICT JUDGE

Date: October 9, 2018

I hereby certify that a copy of the foregoing document was served upon counsel of record and/or pro se parties on this date, October 9, 2018, by electronic and/or ordinary mail.

s/William Barkholz  
Case Manager